



Commonwealth of Massachusetts State Ethics Commission

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SUFFOLK, ss.

COMMISSION ADJUDICATORY
DOCKET NO. 465

IN THE MATTER OF THE MATTER OF ANTHONY BENEVENTO

DISPOSITION AGREEMENT

This Disposition Agreement (Agreement) is entered into between the State Ethics Commission (Commission) and Anthony Benevento (Benevento) pursuant to §5 of the Commission's Enforcement Procedures. This Agreement constitutes a consented to final order enforceable in the Superior Court, pursuant to G.L. c. 268B, §4(j).

On September 10, 1992, the Commission initiated, pursuant to G.L. c. 268B, §4(a), a preliminary inquiry into possible violations of the conflict of interest law, G.L. c. 268A, by Benevento. The Commission has concluded its inquiry and, on March 30, 1993, found reasonable cause to believe that Benevento violated G.L. c. 268A.

The Commission and Benevento now agree to the following findings of fact and conclusions of law:

1. Benevento was, during the time relevant, an elected member of the Board of Assessors of the Town of Swampscott (Board). As such, Benevento was a municipal employee as that term is defined in G.L. c. 268A, §1.
2. The Board is composed of three elected members responsible for the valuation of real estate for tax purposes.
3. In 1984, Benevento purchased a house at 86 Blodgett Avenue in Swampscott. The house had an ocean view.
4. In 1985, Peter McCarriston (McCarriston) was interested in purchasing 84 Blodgett Avenue, which was at the time a vacant lot situated between Benevento's house and the ocean.
5. Based upon a letter from an attorney, Benevento believed the parcel at 84 Blodgett Avenue was an unbuildable lot.
6. McCarriston asked his friend, Attorney William Dimento (Dimento), if the lot was buildable. Dimento researched the history of the parcel and determined that the lot was grandfathered and therefore buildable.
7. Later in 1985, McCarriston purchased the lot and obtained the appropriate building permits. McCarriston built a house on the lot which partially blocked Benevento's view of the ocean from his house.
8. During construction of McCarriston's house and for the next few years thereafter, discussions occurred between Benevento and McCarriston concerning Benevento's access to the beach over McCarriston's property. McCarriston's and Benevento's versions differ as to whether McCarriston promised Benevento beach access rights. Ultimately, McCarriston did not deed a right of way to Benevento.
9. Dimento advised McCarriston throughout these right-of-way discussions.
10. At all relevant times herein, Thomas Belhumeur (Belhumeur) was a close friend and business associate of McCarriston. Benevento was aware of McCarriston's and Belhumeur's friendship. Belhumeur joked about

McCarriston's house blocking Benevento's ocean view at Rotary Club meetings.^{1/}

11. In the fall of 1990, Patriot Properties, a professional appraisal firm, re-evaluated the approximately 5,500 Swampscott properties for tax purposes.

12. Patriot Properties gave a copy of the preliminary valuations to the Board on October 9, 1990. Those valuations generally reflected an across-the-board decrease (averaging approximately 10%) in residential property values.

13. On October 23, 1990, the Board voted to accept the valuations.

14. Later on October 23, 1990, Benevento unilaterally increased the valuation of McCarriston's 84 Blodgett Avenue house from \$602,100 to \$694,600 and increased the valuation of Dimento's 64 Bay View Drive house from \$371,600 to \$414,600.

15. On October 27, 1990, Benevento increased the valuation of Belhumeur's 423 Puritan Road house from \$443,000 to \$461,700.

16. Benevento only increased four of the 5,500 valuations.^{2/}

17. Although the procedures were not in writing, the Board's standard policy at the relevant time required a majority vote to change any valuation. The other assessors were not aware of the increases Benevento made to the valuations.

18. On November 27, 1990, Patriot Properties submitted the valuations to DOR.

19. After the tax bills with the final valuations were released in January 1991, the increases Benevento made to the valuations were discovered.

20. In February 1991, McCarriston, Dimento and Belhumeur applied to the Board for and obtained (with Benevento abstaining) abatements of the above increases.

21. In July 1991, Benevento, Dimento and Assessor Ernest Mazola met to discuss the above increases. Dimento and Mazola testified that at this meeting, Benevento stated, in effect, that he had made the increases because he wanted to punish McCarriston and Dimento; and he would do it again if he had the opportunity. Benevento denies making this statement.

22. On March 1, 1992, Benevento resigned from the Board.

23. On June 2, 1992, DOR released a report concerning their investigation of the matter. The report found that although it could not say the values as increased by Benevento resulted in overvaluations, the unprofessional manner in which the changes were carried out, at the very least, gave the appearance of impropriety.

24. G.L. c. 268A, §23(b)(3) prohibits a municipal employee from acting in a manner which would cause a reasonable person, having knowledge of the relevant circumstances, to conclude that any person can improperly influence him or unduly enjoy his favor in the performance of his official duties, or that he is likely to act or fail to act as a result of kinship, rank, position or undue influence of any party or person.

25. On each occasion he increased the valuations of McCarriston's, Dimento's and Belhumeur's properties, Benevento acted in a manner which would cause a reasonable person with knowledge of all the relevant circumstances to conclude that he could be improperly influenced in the performance of his official duties by his private relationship with these individuals, thereby violating G.L. c. 268A, §23(b)(3). This conclusion is based on two factors: (1) he substantially deviated from standard procedure - - he neither obtained a majority vote authorizing the changes, or, for that matter, even notified the other Board members of what he was doing; and (2) at the time he made these changes, Benevento was on bad terms with McCarriston, Dimento and Belhumeur. This conclusion of undue influence is underscored by the fact that these valuations went up significantly when there was, with the exception of one other property, an across-the-board decrease in residential valuations.

In view of the foregoing violations of G.L. c. 268A by Benevento, the Commission has determined that the public interest would be served by the disposition of this matter without further enforcement proceedings, on the basis of the following terms and conditions agreed to by Benevento:

(1) that Benevento pay to the Commission the sum of five thousand dollars (\$5,000) as a civil penalty for the violations of G.L. c. 268A, §23(b)(3);

(2) that Benevento waive all rights to contest the findings of fact, conclusions of law and terms and conditions contained in this Agreement in this or any other related administrative or judicial proceedings to which the Commission is or may be a party.

Date: April 28, 1993

^{1/} Benevento, McCarriston, Dimento and Belhumeur were all Rotary Club members.

^{2/} Benevento also unilaterally increased the valuation of Peter Beatrice Jr.'s 39 Salem Street house from \$192,500 to \$214,700. Although Beatrice's son owns an insurance agency which competes with Benevento's insurance agency, Benevento's motivation for increasing the father's property valuation is unclear.